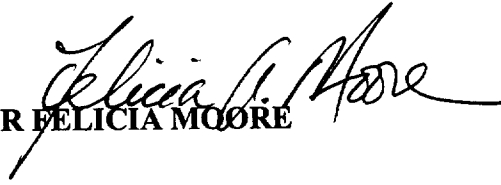


## A RESOLUTION

BY COUNCILMEMBER FELICIA MOORE



**ENDORSING THE PLAN BY THE DEPARTMENT OF WATERSHED MANAGEMENT FOR CONSTRUCTION OF CERTAIN SHORT-TERM AND LONG-TERM SANITARY SEWER IMPROVEMENTS IN NORTHWEST ATLANTA; EXPRESSING THE INTENT OF THE CITY TO INCLUDE SAID IMPROVEMENTS IN THE PROJECT LIST FOR THE 2004 SEWER REVENUE BOND ISSUE; AUTHORIZING THE MAYOR TO EXECUTE ANY CONTRACTS, EASEMENTS, AND OTHER DOCUMENTS AS NEEDED TO PERMIT CONSTRUCTION OF THE PD-H DEVELOPMENT AT 2142 JAMES JACKSON PARKWAY; AND FOR OTHER PURPOSES.**

WHEREAS, General Shale Products LLC ("General Shale") is the owner of a 75.3-acre parcel located at 2142 James Jackson Parkway in the City of Atlanta (the "Property"); and

WHEREAS, by Ordinance No. 02-0-1986/Z-02-76, adopted by the Council on April 21, 2003 and approved by the Mayor on April 28, 2003, the Property has been zoned to PD-H to allow construction of a residential community of single family homes, townhomes, condominiums, apartments, and recreational amenities (the "Development"); and

WHEREAS, the City desires to promote and encourage the redevelopment of this under-utilized industrial parcel to provide new housing stock for the area and to serve as a catalyst for the development of retail, grocery, and service businesses as envisioned in the *Northwest Atlanta Framework Plan* recently adopted by the City; and

WHEREAS, the sanitary sewer basin in which the Property lies, Proctor Creek – Other, has been determined to be a restricted sewer basin under the terms of the First Amended Consent Decree; and

WHEREAS, the City has determined that adequate flow capacity for the Development does not currently exist; and

WHEREAS, after careful review and analysis, the Department of Watershed Management has proposed a plan of short-term and long-term sanitary sewer system improvements (the "Public Improvements") that include certain improvements to the City's sanitary sewer infrastructure on the Property that will provide sufficient sanitary sewer capacity for the Development as well as additional capacity and relief for the Proctor Creek basin and be in the best long-term interest of the City; and

WHEREAS, the City is preparing to issues sewer revenue bonds in Spring 2004 to finance sanitary sewer system capital improvements; and

WHEREAS, the Council wishes to endorse the plan for the Public Improvements and express the intent to include said projects in the project list for the 2004 sewer revenue bond issue.

**NOW, THEREFORE, THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA HEREBY RESOLVES as follows:**

Section 1. The Council hereby adopts and endorses the plan for short-term improvements as described in the letter dated January 28, 2004 from Deputy Commissioner Robert Hunter to James B. Braden, a copy of which is attached hereto as Exhibit A, said improvements to include but not be limited to:

- a) Diversion of limited flow at the Perry Boulevard Diversion Structure; and
- b) Rehabilitation and/or relocation of portions of the Riverside Outfall Trunk downstream of the Development.

Section 2. The Council hereby adopts and endorses the plan for long-term improvements as described in Exhibit A, including but not limited to:

- a) Completion of the Nancy Creek Diversion Tunnel (required to be completed by December 2005);
- b) Installation of automatic controls and diversion of major flow at the Perry Boulevard Diversion Structure on or before December 2005; and
- c) Rehabilitation, relocation, and/or reconstruction of the full length of the Riverside Outfall Trunk on or before December 2005.

Section 3. As a condition precedent for receiving sanitary sewer service for the Development, General Shale or its successors or assigns shall reconstruct, at no cost to the City, the City's existing 12-inch Riverside Trunk sanitary sewer line across the width of the Property to an appropriate diameter to be determined by the City and shall cooperate with and abide by the implementation strategy for the Public Improvements.

Section 4. As a condition precedent for receiving sanitary sewer service for the Development, the reconstruction of the City's existing 12-inch Riverside Trunk sanitary sewer line across the width of the Property shall be done pursuant to plans and specifications approved by the Department of Watershed Management and pursuant to any other City regulations, rules or requirements for the dedication to or acceptance by the City of sanitary sewer infrastructure, including but not limited to procedures for dedication of infrastructure to the City for PD-H developments.

Section 5. The City hereby grants to General Shale and its successors and assigns any and all temporary easements, licenses as appropriate to permit reconstruction of the existing 12-inch Riverside Trunk sanitary sewer line as required in Section 3 and Section 4 and to connect to the City sewer system.

Section 6. Upon application for the development of 115 residential units as approved by the Ordinance No. 02-O-1986/Z-02-76 and the reconstruction of the 12-inch Riverside Trunk

sanitary sewer line as required in Section 3 and Section 4, sanitary sewer capacity for 115 residential units shall be reserved to General Shale and its successors and assigns as contemplated by the City's ordinances, rules and procedures as limited by the federal consent decrees and the requirements of the United States Environmental Protection Agency and the Environmental Protection Department of the State of Georgia.

Section 7. Upon application for the construction of the remainder of the development as approved by Ordinance No. 2 02-O-1986/Z-02-76, sanitary sewer capacity for the remainder of the development shall be reserved to General Shale and its successors and assigns as contemplated by the City's ordinances, rules and procedures as limited by the Federal consent decrees and the requirements of the United States Environmental Protection Agency and the Environmental Department of the State of Georgia.

Section 8. The Council expresses its intent to include the Public Improvements in the project list for the 2004 sewer revenue bonds to be issued by the City.

Section 9. The Mayor is authorized to execute any and all easements, agreements, and other documents and instruments as needed to accomplish the reconstruction of the 12-inch Riverside Trunk sanitary sewer line after approval by the City Attorney as to form.

Section 10. No agreement shall be binding on the City, nor shall the City incur any obligation or liability thereunder, unless the agreement has been signed by the Mayor and delivered to the contracting party.

Section 11. All resolutions in conflict with this resolution are hereby repealed to the extent of the conflict.